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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,547	08/05/2003	Ramon M. Navarro		6434
7590	12/15/2004		EXAMINER	
BRENEMAN & GEORGES 3150 Commonwealth Avenue Alexandria, VA 22305			MAUST, TIMOTHY LEWIS	
			ART UNIT	PAPER NUMBER
			3751	

DATE MAILED: 12/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/633,547	NAVARRO ET AL.	
	Examiner	Art Unit	
	Timothy L Maust	3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 05 August 2003.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-33 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-14 and 18-33 is/are rejected.
 7) Claim(s) 15-17 is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 05 August 2003 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include any reference sign(s) mentioned in the description. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

Claim 21 is objected to because of the following informalities: In line 13, "of" (2nd occurrence) should be deleted; and in line 14, apparently "pistons" (2nd occurrence) should be -- cylinders --. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 12-14 and 21-33 are rejected under 35 U.S.C. 102(b) as being anticipated by Pankratz et al.

In regard to claims 12 and 21, 22 the Pankratz et al. reference discloses a “product filler machine” (Fig. 3) comprising, a “support stand” 10, a “product reservoir” 24 having a plurality of “openings” 54, a plurality of product “dispensing valves” 64, a plurality of product dispensing “pistons” 48 and “cylinders” 30, and “adjustable means” 124 via hydraulic actuator 100, as claimed. Further, in regard to the claim limitation of being “detachable”, the device is capable of being assembled and disassembled (see col. 7, line 64- col. 8, line 36).

In regard to claims 13 and 14, see “flange” connection 62 in Figure 5.

In regard to claim 23, “individual adjustment” is attained via handwheel 140.

In regard to claim 24 see “pneumatic actuator” 80.

In regard to claims 25 and 26, see “conveyor” 20 and “nozzles” 28A-D in Fig. 1.

In regard to claim 27, the “conveyor” 20 has sequential movement (see col. 8, lines 37-65).

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In regard to claims 28-33, see Figure 2, which shows a duplicate setup as claimed.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pankratz et al.

In regard to claims 1-11, the Pankratz et al. reference discloses the invention substantially as claimed (discussed supra), but does not disclose the adjustable rack having threaded adjustment. It would have been obvious to one having ordinary skill in the art at the time the invention was made to control the adjustable rack of the Pankratz et al. device by "computer control", "mechanically", "electromagnetically", "pneumatically" or "hydraulically", since it has been held that broadly providing a mechanical or automatic means to replace manual activity which has accomplished the same result involves only routine skill in the art. *In re Venner*, 120 USPQ 192.

Claims 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pankratz et al.

The Pankratz et al. reference discloses the invention substantially as claimed (discussed supra), but does not disclose having three-way dispensing valves. It would have been an obvious matter of design choice to make the dispensing valve three-way, since applicant has not disclosed that a three-way valve rather than a piston valve solves any stated problem and it appears that the invention would perform equally well with a piston valve.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Bryd et al. and Abe et al. references pertain to various dispensers, similar to Applicants' device.

Allowable Subject Matter

Claims 15-17 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy L Maust whose telephone number is (571) 272-4891. The examiner can normally be reached on Tue. - Fri. 6:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on (571) 272-4887. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Timothy L Maust
Primary Examiner
Art Unit 3751

Tlm
12/10/04